IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

MFA.No. 1286 of 2000(B)

WCC.20/1995 of COMMISSIONER FOR WORKMEN'S COMPENSATION (DEPUTY LABOUR COMMISSIONER),ERNAKULAM

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APPELLANT/APPLICANT:

CHANDRA BOSE, CHETTIARAMBIL HOUSE, ELAMAKKARA, COCHIN 26.

BY ADV. SMT.VANAJA MADHAVAN

RESPONDENTS/OPPSITE PARTY:

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1. THE CHAIRMAN, COCHIN PORT TRUST, COCHIN.

(*)2. MATHEW MANIPADAM, DY.CONSERVATOR OFFICE, COCHIN PORT TRUST, COCHIN.

(*)R2 IS DELETED FROM THE ARRAY OF RESPONDENTS AT THE RISK OF THE APPELLANT AS PER ORDER DATED 18.1.2007 IN IA 62/2007.

R1 BY ADV. SRI.A.M.SHAFFIQUE
SRI.A.M.SHAFFIQUE
SMT.PRIYA KRISHNAMOORTHY
SMT.PRIYA MANJOORAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.F.A.No.1286 of 2000

Dated, this the 8th day of October, 2007

JUDGMENT

The claimant workman in W.C.C.No.20/1995 on the file of the Commissioner for Workmen's Compensation (Deputy Labour Commissioner), Ernakulam is the appellant. Appellant along with Xavier and Manoharan was working as an electrical fitter in a crane situated at Cochin Port Trust. Accident occurred when the crane hit on the side of a ship which was kept in the port. The appellant/claimant sustained injuries. Appellant was admitted in Medical Trust Hospital immediately after the incident. He was treated there as inpatient for 22 days. He claimed an amount of Rs.One lakh as compensation. Appellant produced a disability certificate which shows that he has not suffered any permanent disability. Relying on that certificate the Deputy Labour Commissioner found that there was no permanent disability and dismissed the application. Challenging that order this appeal is filed.

2. Learned counsel appearing for the appellant has submitted that the view taken by the Deputy Labour Commissioner is illegal. It is argued that appellant had sustained head injury, injury to both shoulders, injury to both knees of the legs and on account of the impact of the hit his vision was effected and he underwent treatment for more than three months. So he is entitled to get compensation. It is also argued that another person P.D.Antony has also

sustained injuries and he filed O.S.No.250/1996 before the Munsiff's Court, Cochin and in that the learned Munsiff had awarded an amount of Rs.15,000/- as compensation to him and that judgment has become final.

3. Learned counsel appearing for the first respondent employer has submitted that it is a case in which workman is entitled to get only 25% of the salary while he was on leave. But in this case, in spite of the fact that the appellant was on leave Management had paid the entire salary due to him and as such he is not entitled to get any further amount. It is also submitted that the entire medical expenses were met by the company and as such the appellant has not suffered any loss or damages.

4. It is true that the appellant did not suffer any permanent disability and he has not suffered any loss or damages. As such the finding of the Deputy Labour Commissioner is perfectly correct and does not call for any interference. But in view of the fact that in O.S.No.250/1996 filed by another victim who sustained injuries in the very same accident was awarded Rs.15,000/- as compensation, I am of the view that it is only just and proper to grant Rs.10,000/- as compensation to the appellant towards his treatment expenses, etc. I make it clear that it is in the form of an ex-gratia payment and the appellant is not entitled to get any interest in case the amount is deposited within three months from the date of receipt of a copy of this judgment. The appellant will be entitled to get interest if the amount is not paid or deposited as directed above.

In the result, appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.10,000/- from the respondents as ex-gratia payment. Appellant is entitled to get interest if the amount is not deposited within three months from the date of receipt of a copy of this judgment. First respondent is directed to deposit the amount and on deposit the appellant is entitled to withdraw the amount.

K. PADMANABHAN NAIR,
JUDGE.

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K.PADMANABHAN NAIR, J.

M.F.A.No.1286 of 2000

JUDGMENT

8th October, 2007